

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON, MASSACHUSETTS

FILED
IN CLERKS OFFICE
2004 MAY 28 A 9:33

U.S. DISTRICT COURT
DISTRICT OF MASS.

THE MD MANAGEMENT CO., LLC)
Petitioner)
ADRIAN LEPEDEANU)
Beneficiary)
MARIANA LEPEDEANU)
Dependent, Spouse)
R.L.)
Dependent, Child)
Plaintiffs,)
v.)
U.S. DEPARTMENT OF HOMELAND)
SECURITY, CITIZENSHIP AND)
IMMIGRATION SERVICES,)
Defendant.)

Civil Action No. 04-10499-RWZ

PLAINTIFFS' MOTION FOR HEARING AND
OPPOSITION TO DEFENDANT'S MOTION FOR STAY

NOW COME the Plaintiffs and oppose Defendant's Motion for Stay Pending Agency's Reopening of Decision, which was filed with this Court on May 20, 2004. Plaintiffs also move for a hearing to clarify the procedural posture of the case, narrow the issues, and discuss production of the administrative record.

As discussed in the attached Memorandum of Law, this Court should deny Defendant's Motion because Defendant is seeking to circumvent judicial review by attempting to rewrite its prior decision on the merits of this case using impermissible *post*

hoc rationalization. Also, the delay created from a stay will prejudice the Plaintiffs, as it will prolong a situation of legal limbo. Finally, Defendant's administrative reopening will not moot the present case, as Defendant's revocation of Plaintiffs' H-1B petition is an arbitrary action that is capable of repetition, yet will evade review absent the continuation of these proceedings. For the foregoing reasons, this Court should deny Defendant's motion and allow the current proceedings to move forward.

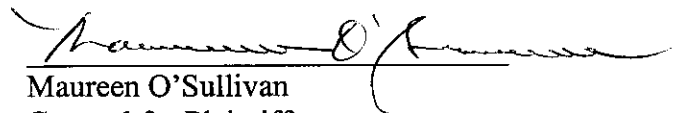
REQUEST FOR ORAL ARGUMENT

In light of Defendant's motion and notice of administrative reopening, Plaintiffs move this Court to schedule a hearing to clarify the procedural posture of this case, narrow the issues for purposes of focusing a future Motion for Summary Judgment, and discuss the production of the administrative record.

WHEREFORE, Plaintiffs respectfully request that this Court deny the Defendant's Motion for Stay and schedule this matter for a hearing.

Respectfully submitted,

5/27/04
DATE

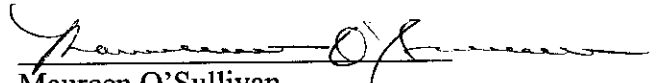

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CERTIFICATE OF SERVICE

I, Maureen O'Sullivan, hereby certify that a copy of the PLAINTIFFS' MOTION FOR HEARING AND OPPOSITION TO DEFENDANT'S MOTION FOR STAY in this case was sent by federal express to:

Jeremy Sternberg
Assistant U.S. Attorney
U.S. Attorney's Office
U.S. Courthouse
Suite 9200
1 Courthouse Way
Boston, MA 02210

This 27th day of May 2004.


Maureen O'Sullivan
Kaplan, O'Sullivan & Friedman
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